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9/20/93

September 20, 1993

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SEP 21 1993

OFFICE OF REGIONAL COUNSEL  
EPA - REGION X

Ms. Carol Rushin, Chief  
Superfund Remedial Branch  
U.S. Environmental Protection Agency  
Region 10  
HW-113  
1200 Sixth Avenue  
Seattle, WA 98101

Re: Commencement Bay Nearshore/Tideflats CERCLA Site  
Hylebos Waterway  
Minor PRP Group Settlement Proposal

Dear Ms. Rushin:

We are tendering a settlement proposal on behalf of 36 minor Hylebos PRPs in response to EPA's June 21, 1993 Special Notice letter. Attached as Exhibit A is a list of the 36 minor PRPs making this offer.

The 36 parties are offering EPA \$2.47 million to completely settle all potential liability at the Hylebos Waterway. This offer represents an equitable share of total response costs as well as a substantial premium.

We urge EPA to consider this settlement proposal in light of EPA's national settlement policy which has received much attention in the last several months. EPA and the Clinton administration emphasize that early settlement with minor parties is one of the nine administrative improvements necessary to improve the pace and cost of cleaning up Superfund sites. The 1989 Commencement Bay Nearshore Tideflat Record of Decision provides an adequate estimate of future costs from which to settle minor PRP liability. EPA guidance documents specifically state that EPA need only estimate future costs; a precise amount is not required to settle minor PRP liability. A premium is included in this proposal to account for the possibility that cleanup costs may exceed estimated costs.

In a letter dated June 21, 1993, EPA refused to entertain the settlement offer of the 27 original members of the minor PRP group and encouraged the minor PRP group to negotiate with EPA to

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perform the Remedial Design or negotiate a funding agreement with the six major PRPs ("major PRPs"). At a meeting on September 9, 1993 between several representatives of the minor PRP group and EPA representatives, EPA's Assistant Regional Counsel, Lori Houck, encouraged us to direct our offer of funding to the major PRPs in lieu of an offer to EPA. We are sending a copy of this offer to the major PRP Chairman Norman B. Webb. We are, however, making the offer to EPA because we believe the Special Notice Letter and the statute require a settlement proposal directed to the agency.

However, if, as Ms. Houck indicated at the September 9, 1993 meeting, EPA considers an offer of funding to the major PRPs a satisfactory alternative to an offer to EPA, the minor PRPs are willing to discuss settling liability with the major PRPs for \$2.47 million as discussed above. We would look with equal favor upon use of the funds to reimburse EPA's past costs or use by the major PRPs to fund remedial design and action.

As you are aware, the minor PRPs, despite many specific requests, have not been afforded an opportunity to participate directly in negotiations between EPA and the major PRPs regarding the Administrative Order on Consent or draft Scope of Work to perform the Remedial Design. The major PRPs' terms for participation in these negotiations are prohibitive for a number of reasons. The major PRPs require a large initial cash payment to join the group. There is no existing or planned allocation scheme or tiered approach to these payments. The PRP participation agreement does not provide for refund of overpayment to the group. Most importantly, the major PRPs do not recognize the different levels of contribution of problem chemicals to the site, and simply ask all companies to fund the work equally. It is also apparent that the major PRPs will not enter into individual settlement or funding agreements with other PRPs by the September 20, 1993 deadline, nor tender any offer at all to the minor PRP group, despite repeated attempts by the minor PRP group to negotiate with the major PRPs.

Unable to participate in negotiations, the group of minor PRPs have undertaken a number of steps to prepare this settlement proposal to fund an appropriate percentage of the Hylebos Waterway cleanup. The PRPs who participated in the first settlement offer invited all PRPs who received Special Notice letters and displayed an interest in joining the minor PRP group to be evaluated for inclusion in the group. After examining confidential questionnaires and information submitted by PRPs, the group admitted an additional 13 members. The group has conducted its own internal allocation and placed members into tiers according to various factors. Affidavits from 23 of the

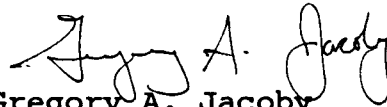
September 20, 1993

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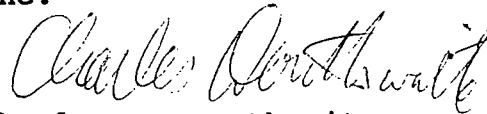
PRPs listed on Exhibit A were previously forwarded to EPA as part of an April 16, 1993 settlement offer. Affidavits from 12 of the 13 new parties are attached to this proposal. The remaining affidavits will be forwarded by the end of next week.

The minor PRPs make these offers in the interest of facilitating the cleanup of the Hylebos Waterway and allowing these minor parties to return to running their businesses. We look forward to EPA's response to this minor PRP settlement proposal. We would welcome further negotiations with the major PRPs regarding funding as well. Please contact Greg Jacoby to discuss this matter further.

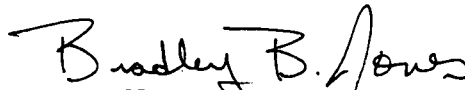
Very truly yours,



Gregory A. Jacoby  
Attorney for Manke Lumber Company,  
Inc.



Charles K. Douthwaite  
Attorney for Dunlap Towing Company,  
Leslie P. Sussman and  
Joseph Simon & Sons, Inc.



Bradley B. Jones  
Attorney for City of Tacoma



William H. Chapman  
Attorney for Lone Star Northwest,  
Inc.

cc: Lori Houck, EPA  
Allison Hiltner, EPA  
Randy Smith, EPA  
Minor PRPs  
Major PRPs

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**EXHIBIT A**

**HYLEBOS MINOR PRP GROUP**

Airo Services, Inc.  
AK-WA, Inc.  
AOL Express  
Bay Zinc  
BPA  
Buffelen Woodworking Co.  
Cascade Timber Co.  
Cenex AG, Inc.  
City of Tacoma Public Utilities  
City of Tacoma Storm and Sewer Utility  
Dunlap Towing  
Echo Lumber  
F.O. Fletcher, Inc.  
Hylebos Marina  
Jones-Goodell Corporation  
Lone Star Northwest  
Louisiana Pacific  
Manke Lumber Co., Inc.  
McFarland Cascade Holdings, Inc.  
Modutech Marine, Inc.  
Murray Pacific Corp.  
Navy  
Nordlund Boat Company  
Nordlund Property  
Ole & Charlies  
PRI, Northwest  
Ryder Truck Rental  
Joseph Simon & Sons, Inc.  
Sound Refining Co.  
Stone Investment  
Streich Brothers, Inc.  
Leslie Sussman  
USG Interiors, Inc.  
Vance Lift Truck, Inc.  
Wasser & Winter, Inc.  
Weyerhaeuser

9/20/93

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SEP 17 1993

MCGAVICK GRAVES, PS

ENVIRONMENTAL PROTECTION AGENCY

In re:

Hylebos Waterway

DECLARATION OF CHARLES DURGIN  
IN SUPPORT OF SOUND REFINING,  
INC.'S MINOR PRP SETTLEMENT

I, CHARLES DURGIN, hereby declare under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I make this Declaration of my own knowledge and I am competent to testify as to the matters stated herein.

2. I submit this Affidavit on behalf of Sound Refining, Inc., as part of its effort to participate in a Minor PRP Group Settlement with respect to Comprehensive Environmental Response Compensation and Liability Act (CERCLA) liability on the Hylebos Waterway.

3. I am Vice President and Secretary of Crysen Corporation. Sound Refining, Inc. is a wholly owned subsidiary of Crysen Corporation.

4. This Affidavit should be considered a supplement to Sound Refining's response to EPA's April 24, 1989 general notice letter.

DECLARATION OF DURGIN IN SUPPORT  
OF SOUND REFINING'S MINOR PRP  
SETTLEMENT - 1

(TA932670.086)

LAW OFFICES  
GORDON, THOMAS, HONEYWELL  
MALANCA, PETERSON & DAHEIM  
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TACOMA, WASHINGTON 98401-1167  
(206) 572-6060 - FACSIMILE (206) 572-4616

1           5.    Sound Refining, Inc. is located in Tacoma,  
2           Washington, at 2628 Marine View Drive, along the north  
3           shoreline of the Hylebos Waterway.

4           6.    Sound Refining is located in an area near the middle  
5           of the Hylebos Waterway between the problem areas of the Head  
6           and the Mouth of the waterway. According to EPA's September  
7           1989 Record of Decision (ROD), the area immediately adjacent  
8           and off shore of the Sound Refining facility will not require  
9           remediation.

10          7.    Sound Refining owns approximately 47 acres of land.  
11          Approximately 19.5 acres consists of a mudflat along the north  
12          side of the Hylebos Waterway immediately south of 11th Street.  
13          Five (5) acres is across Marine View Drive and is vacant. The  
14          majority of the remaining 22.5 acres of upland property is  
15          used by Sound Refining as an oil refinery.

16          8.    Crysen Corporation purchased Sound Refining, Inc. on  
17          September 3, 1981. Prior to that time, both the property and  
18          Sound Refining was owned by Kalama Chemical, Inc., whose  
19          foreign parent company is B.C. Sugar Refinery Limited located  
20          in Vancouver, British Columbia. Kalama Chemical manufactured  
21          asphalt and heavy fuel oil.

22          9.    Sound Refining processes approximately 750,000  
23          barrels of crude oil annually. The refinery is "down"  
24          approximately 20 to 25 weeks a year. During this time no  
25          production activities occur.

26  
  
DECLARATION OF DURGIN IN SUPPORT  
OF SOUND REFINING'S MINOR PRP  
SETTLEMENT - 2

[TA932670.085]

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1           10. Sound Refining operates under a national pollutant  
2 discharge elimination system (NPDES) waste discharge permit.  
3 Sound Refining's petroleum refinery consists of fractionation  
4 of crude oil in two distillation towers, one atmospheric and  
5 one vacuum. The refinery's industrial effluent treatment  
6 system includes an API separator, surge pond, CPI oil/water  
7 separator, settling tank, aeration basin, Rotating Biological  
8 Solids Treatment System (RBS), and clarifier prior to  
9 discharge.

10           11. There are eight (8) stormwater basins which result  
11 in runoff from the Sound Refining facility. The first is the  
12 main effluent discharge from the settling pond tested everyday  
13 for various parameters and governed by the NPDES permit.  
14 Three of the others drain the refinery proper. The remaining  
15 four are essentially parking lot drains and have no industrial  
16 activity. They are some 500 feet from and separated by dikes  
17 from anything other than employee parking. Storm drains are  
18 of corrugated pipe and are protected by large basins in weir  
19 boxes in the event of a spill. They are multiple valved, with  
20 the last valve outside the diked areas. In addition, there is  
21 an external weir box with a filter prior to the waterway.  
22 Three other drains exist on the property that are of concrete  
23 and belong to the City of Tacoma.

24           12. During the entire period of Sound Refining, Inc.'s  
25 ownership by Crysen, there have never been any major spills of  
26

DECLARATION OF DURGIN IN SUPPORT  
OF SOUND REFINING'S MINOR PRP  
SETTLEMENT - 3

(TA932570.086)

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1 hazardous substances as defined by CERCLA or the Washington  
2 Model Toxics Control Act (MTCA). Small incidental releases of  
3 petroleum product have occurred and have been remediated  
4 without substantial discharge to the Hylebos Waterway.

5 13. In connection with a possible sale of the Sound  
6 Refining facility, Hart Crowser performed an environmental  
7 assessment in November of 1988. Sound believes that EPA was  
8 previously provided with a copy of that report. Nonetheless,  
9 a copy is being provided under separate cover to Lori Houck,  
10 Esq., Counsel for EPA. That report showed minimal localized  
11 releases of petroleum products. Five monitoring wells were  
12 installed and no BETX components were detected except xyelene,  
13 at one well, at one part per billion (PPB) above detection  
14 limits. Under those circumstances, Hart Crowser felt that the  
15 apparent hit may be an anomaly. No other problems of note  
16 were detected.

17 14. As part of Sound Refining's NPDES permit  
18 requirements, Sound Refining hired Parametrix to conduct a  
19 Sediment Monitoring study in July of 1992. A copy of that  
20 report is being provided under separate cover to Lori Houck,  
21 Esq., Counsel for EPA. All sediment samples tested met the  
22 biological criteria identified in Part III of WAC 173-204 as  
23 having no adverse or chronic biological effects on biological  
24 resources. The study concluded that the sediment impact zone  
25 at the waste water discharge outfall complies with the  
26

DECLARATION OF DURGIN IN SUPPORT  
OF SOUND REFINING'S MINOR PRP  
SETTLEMENT - 4

(TA932570.085)

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See 1993  
response  
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1990-1993  
exceedances of NPDES  
of grease &  
oil  
Also  
Cost Guard  
citation  
on water  
from separator



SENT BY: GORDON, THOMAS

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1 sediment management standards required under Part IV of WAC  
2 173-204.

3 15. Sound Refining was placed on Ecology's list of  
4 their June 5, 1992 Milestone 1 Source Control Status Report.  
5 Ecology speculated that copper and phenols may be of concern.  
6 Sound Refining does not use copper in any of its processes.  
7 Any copper on or near the Sound Refining property is most  
8 likely caused by offsite releases from Amarco slag, including  
9 releases from the McFarland Cascade property to the south of  
10 Sound Refining.

11 16. Sound Refining does not have any information  
12 concerning current or historical dredging activities at its  
13 property.

14 17. Sound Refining believes it is a non-substantial  
15 contributor to the contamination of the Hylebos Waterway.  
16 Sound Refining has conducted extensive studies through the  
17 years and believes that these studies confirm its position.

18 18. Since responding to the general notice letter of  
19 April 24, 1989, Sound Refining has participated in activities  
20 concerning the Hylebos Waterway. Those activities have  
21 included working with other PRPs on a variety of subjects.

22 Dated this 17th day of September, 1993.

23   
24 CHARLES DURGIN, Vice President and  
25 Secretary, Crysen Corporation  
26  
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28 DECLARATION OF DURGIN IN SUPPORT  
29 OF SOUND REFINING'S MINOR PRP  
30 SETTLEMENT - 5

(7/24/93/10/93)

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AFFIDAVIT OF RICHARD J. CAMP, JR.

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

RICHARD J. CAMP, JR., being first duly sworn upon oath,  
deposes and says:

1. I am the president of Bay Zinc Company, Inc. and have personal knowledge and am competent to testify regarding the factual matters set forth herein.

2. I am making this affidavit on behalf of three PRPs named in the special notice letter issued by EPA dated June 21, 1993: Bay Zinc, Bay Chemical, and Bay Smelting. Bay Smelting and Bay Chemical were companies operated by (b) (6) Richard J. Camp, Sr., on property near the Hylebos Waterway (4110 East 11th) from 1954 to 1974. (b) (6) March of 1975, and the property was sold to Don Oline in November of 1975.

3. At all times, the property at this location was owned by (b) (6) in his individual capacity, not by any of the companies or corporations in business at that location.

4. Bay Zinc Company, Inc. is a corporation formed in 1963 to manufacture dry zinc fertilizer in Yakima. Bay Zinc has never owned property or operated a business in the vicinity of the Hylebos Waterway.

\*  
question  
about  
Bay Chem &  
Bay Smelting  
& whether they  
were  
Bay Zinc  
See 5 below

5. Bay Zinc Company, Inc. is the corporate successor of Bay Chemical. Bay Chemical had previously acquired the interests of Bay Smelting, a sole proprietorship operated by (b) (6).

6. Although (b) (6) has not operated these businesses or owned any property near the Hylebos for almost twenty years, I have some personal knowledge regarding the operations of the businesses at this site. I also have knowledge regarding the historical and current manufacturing processes used for fertilizer products, particularly liquid zinc sulfate.

7. This affidavit is being submitted to EPA and the "Major PRPs" (the Hylebos Cleanup Committee) as part of a group proposal for a "de minimis" or "Minor PRP" settlement. I believe this settlement proposal is consistent with the provisions of Section 122(g) of CERCLA, providing that EPA may settle with a person whose contribution of hazardous substances at a facility is minimal, both in terms of volume and toxicity or other hazardous effects, relative to other hazardous substances at a site. I believe this proposal is also consistent with EPA's OSWER directives regarding de minimis settlements, including OSWER Directive # 9834.7-1D setting forth a streamlined approach for de minimis settlements "[t]o encourage more, early, and expedited settlements, and reduce the transaction costs of all parties."

8. To the best of my knowledge and based on my review of relevant historical documents, the business operations of Bay Smelting and Bay Chemical at this site did not result in any release of hazardous substances to the Hylebos Waterway that

contributed to sediment contamination. Bay Zinc had no presence or involvement at this site. Based on these circumstances, a de minimis settlement with these three PRPs would satisfy the statutory requirements that any contribution of hazardous substances by these parties be minimal in amount or toxicity relative to the contributions of other parties. An early settlement will reduce transaction costs and will result in a fair allocation of financial burdens related to the Superfund response for the Hylebos Waterway.

9. The property of concern indicated in EPA's Special Notice letter to these three PRPs is located at 4110 East 11th Street, Tacoma, Washington. This property consists of two contiguous tax parcels, each located at least 200 feet from the Hylebos Waterway. The site is currently owned and occupied by Airo Services, Inc.

10. The property in question at 4110 East 11th Street was owned by (b) (6) Richard J. Camp, Sr., from about 1949 until November 1975 when it was sold following (b) (6). From approximately 1954 until 1962 or 1963, the site was used by a company operated as a sole proprietorship by my father under the name of Bay Smelting Company. Bay Smelting manufactured liquid zinc sulfate at this site for the fruit tree industry. In 1962 or 1963 Bay Smelting was incorporated under the name of Olympic Enterprises, Inc. Bay Smelting/Olympic continued the manufacturing of liquid zinc sulfate as a fertilizer until this business was moved to Yakima in 1964.

11. From about 1961 until 1974, Bay Chemical Company, Inc. (a corporation formed by my father) distributed and later manufactured calcium chloride on the site. This calcium chloride business was sold in 1974.

12. Bay Zinc Company, Inc. was formed in 1963 to manufacture a dry zinc soil amendment in Yakima, Washington. Bay Zinc did not operate any businesses in Tacoma, did not own property in Tacoma, and had no involvement with the businesses or property at 4110 East 11th Street in Tacoma.

13. The following information about adjoining property is based on my review of Pierce County Assessor's records. The 4110 East 11th Street property is bordered on the west by East 11th Street for approximately 100 feet and by another parcel owned by Barbara Allen for approximately 170 feet. To the south, between the subject property and the waterway are three parcels owned by Mintercreek Development at 4102 and 4106 E. 11th Street. Another parcel, approximately 12 acres owned by Woodworth & Company, borders the subject property to the southwest. South of the above-mentioned parcels is property owned by Sound Refining that is directly on the waterway. To the north and east of the subject property are a number of small parcels owned by various parties including:

McGoldrick/King/King  
4130 E. 11th Street

City of Tacoma  
Marine View Drive

Ken Bronger  
2928 Marine View Drive

Patterson  
2928 Marine View Drive

Solomon Christel  
2914 and 2838 Marine View Drive

Shirly Thompson  
2834 Marine View Drive

14. To my knowledge, no environmental investigation has been conducted on the 4110 East 11th Street property. Based on discussions with my environmental consultant and my review of materials prepared by my environmental consultant, it is my understanding that the planned sediment remediation in the Hylebos Waterway is not related to any effects of operations of the three above-named PRPs. This understanding is confirmed by the following reports describing conditions in the waterway in this vicinity and the nature of sediment contamination near 4110 East 11th Street:

**Commencement Bay Nearshore/Tideflats, Record of Decision, U.S. EPA, Region 10, September 1989.** The samples taken from the inlet near the subject property east of East 11th Street showed that "chemicals were below apparent effects thresholds" and that this area is not identified as a "problem area" based on the 1988 sediment study conducted by Tetra Tech (page 52). The 4110 East 11th Street property was not listed as a potential source of contaminants to the problem areas.

**Source Control Strategy, Commencement Bay Nearshore/ Tideflats Superfund Site, U.S. EPA, Region 10, May 1992.** Zinc is identified as a "priority 3" chemical in the mouth of the Hylebos. However, the "problem area" identified at the mouth is not near 4110 East 11th Street, but is a small strip on the south shore of the waterway to the south and west of the subject property. The

waterway area in the vicinity of the subject property is not identified as a problem area.

**Spatial and Temporal Trends in Contaminant Levels in Settling Particulate Matter: Hylebos Waterway (Commencement Bay), July 1990 to November 1991, Washington State Department of Ecology, December 1992.** This study indicates that present and historic levels of problem chemicals in the Hylebos sediments are similar. Data indicate that after source control was implemented at General Metals the levels of zinc, antimony, and lead decreased near General Metals at the head of the Hylebos. Concentrations of certain organic constituents are high; PCBs are apparently increasing and exceed Sediment Quality Objectives (SQOs) in the inlet area based on one sample collected in the area near PRI/Fletcher Oil. The only other chemical exceeding SQOs in the area is benzoic acid. Neither benzoic acid nor PCBs are associated with Bay Smelting or Bay Chemical operations on the subject property.

**Milestone 1 Source Control Status Report for Mouth of Hylebos: Commencement Bay Nearshore/Tideflats Superfund Site - Washington State Department of Ecology, June 5, 1992.** This report contains lists of "potential," "probable," and "confirmed" sources of "problem chemicals" for the Mouth of the Hylebos Waterway. The subject property formerly occupied by Bay Smelting and Bay Chemical (now owned by Airo Services) was removed from the "probable sources" list for the reason: "Problem chemicals not identified." (page 10).

**Milestone 2 Source Control Status Report for Mouth of Hylebos: Commencement Bay Nearshore/Tideflats Superfund Site - Washington State Department of Ecology, March 3, 1993.** This report identifies Occidental Chemical Corporation as the only major source of "problem chemicals" at the Mouth of the Hylebos Waterway. The Bay Smelting/Bay Chemical property is not included on or otherwise associated with properties on the list of other "confirmed" or "probable" sources of problem chemicals - none of which are considered as major sources, in any event.

15. Although I had limited contact with the business operations at this site in Tacoma (b) (6)

I have some personal knowledge regarding the nature of those



operations. This knowledge is supplemented by my experience in operating a similar business involved in the manufacturing of liquid zinc sulfate in the Yakima area.

16. The following is a summary chronology of the corporate and operations history at this site from 1949 through the time the property was sold in 1975:

- 1949 - The property was purchased by (b) (6) Richard J. Camp, Sr., from the Port of Tacoma.
- 1954-64 - Richard Camp, Sr. operated a sole proprietorship (Bay Smelting Company) making zinc sulfate for fruit tree industry until this operation was moved to Yakima in 1964.
- 1961 - Bay Chemical Company Inc. (formed by Richard Camp, Sr.) began distribution of calcium chloride.
- 1962/63 - Bay Smelting became incorporated into Olympic Enterprises, Inc.
- 1963 - Bay Zinc Co. Inc was formed to manufacture a dry zinc soil amendment in Yakima, WA
- 1964 - Bay Smelting/Olympic operations (zinc sulfate) moved to Yakima
- 1972 - Olympic merged into Bay Chemical
- 1974 - calcium chloride business was sold
- 1974 - Bay Zinc and Bay Chemical merged, with Bay Chemical as the survivor
- 1975 - Richard Camp, Sr. (b) (6) Tacoma property was sold in November to Don Oline
- 1985 - Bay Chemical changed its name to Bay Zinc Company, Inc.

17. Bay Smelting manufactured zinc sulfate at this site from about 1954 to about 1962 or 1963. Thereafter, this business



was incorporated into Olympic Enterprises, Inc. Bay Smelting/Olympic manufactured zinc sulfate by mixing zinc skimmings with sulfuric acid and water in a tank. This was a contained manufacturing process with no process effluent. The end product - liquid zinc sulfate - was used as an agricultural fertilizer product. This production of zinc sulfate was seasonal. Total production tank capacity at this site was probably in the range of 15,000 gallons. It is my estimate that the annual production of liquid zinc sulfate from this site during this time period would have been in the range of about 100,000 - 150,000 gallons per year. Production of liquid zinc sulfate would have taken place only from February to May each year and again for a brief period in the fall season. This business employed from 1 to 3 people. The end product was shipped off site by tanker truck upon completion of the reaction phase of production. The raw materials for the manufacturing of zinc sulfate (zinc skimmings and sulfuric acid) were transported to and stored on the site in containers. To my knowledge, these raw materials were never stored in such a manner as to have been released into the Hylebos Waterway.

18. Bay Chemical manufactured and distributed calcium chloride at this site from approximately 1961 to 1974. Initially, Bay Chemical distributed calcium chloride. Later Bay Chemical manufactured calcium chloride on site by reacting hydrochloric acid and lime in a tank. The end product was used to facilitate the drying and curing of cement. There was no

waste stream from this calcium chloride manufacturing process.

This business employed about 2 or 3 people.

*How do they know?  
Did they search the PCC files; no says so below!*

19. The only record of any spill or release of materials potentially related to end product or raw materials used at this site is a Pollution Control Commission "Inter-Office Memorandum" dated March 5, 1959. It refers to a "fish kill of Sunday, March 1, 1959" due to zinc and copper and refers to Bay Smelting's apparent responsibility for a release of zinc (but not copper) to the waterway. The PCC memo refers to immediate steps required to curb and control storm water drainage at the site. Records indicate these measures were implemented, including measures for the impoundment of storm water for use as make-up water in the production of liquid zinc sulfate. There is no documentation of any other release or spill of zinc or zinc sulfate or similar product from the site into the waterway since 1959. Zinc sulfate is highly soluble and, even if released into the waterway in this 1959 incident, it is extremely unlikely to have resulted in an accumulation of zinc in sediments in the area. In fact, my understanding of the technical investigations in this area is that there is not a zinc problem in the sediments in this vicinity. This is confirmed by the Milestone 1 report dated June 5, 1992 showing this site to be removed from this list of "probable sources" for the Mouth of the Hylebos for the reason that no problem chemicals were identified at this site.

*What about Paul?*

*Allison?*

20. Based on a review of the Pollution Control Commission memos provided to EPA under a transmittal memo from Paul

Fuglevand dated May 27, 1993, it appears that a lagoon was constructed on this site in 1959, and for several years thereafter truck washings were deposited in one or two lagoons on site. Inspection reports indicate these were glue wastes. I am not aware of any evidence documenting a release of any problem chemicals from any on-site lagoons to the Hylebos Waterway from 1959 to 1975.

21. I have reviewed the two memos to EPA from Paul Fuglevand dated May 24, 1993 and May 27, 1993, purporting to summarize the "possible discharge of chemicals into the Hylebos from Bay Smelting/Bay Chemicals." First, aside from the fact that these documents do not implicate these companies with respect to the release of any problems chemicals that are the focus of Hylebos sediment remediation, most of the PCC documents actually verify that operations and activities at the site during the period covered (1959 to 1965) were not resulting in any releases or other adverse impacts to the waterway. I have not reviewed the original archived PCC files to determine if other memos exist for this or other time periods that could favorably reflect these three PRPs' operations. Second, the discharge permits attached to Mr. Fuglevand's memos appear to have been obtained in anticipation of activities that were never conducted on site. For example, wastes from Boeing plants were never brought to the site. Finally, the photointerpretation conclusions are inconsistent with known facts and historical documents and appear to refer to activities and land features on

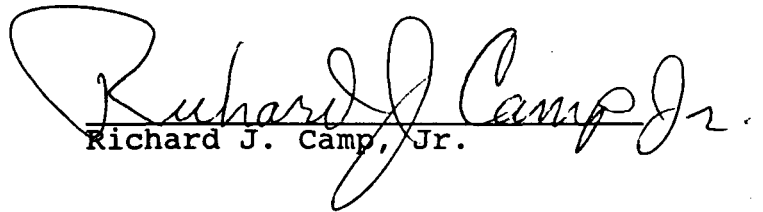
adjacent property. For example, lagoons were mistakenly interpreted as containing "hydrocarbons." PCC memos show that these lagoons were for the collection of storm water from the tank areas for use as process makeup water. Also, it appears that the "ditch" identified in the 5/8/65 aerial photo is not located on Bay Smelting/Bay Chemical Property, but on the parcels between the subject property and the Hylebos Waterway.

22. All of the business activities of Bay Smelting and Bay Chemical described above were conducted at least 200 feet from the Hylebos Waterway. None of the property in question adjoins the Hylebos Waterway.

23. Collectively, historical documents from archived records of the Pollution Control Commission and attempts by other parties to interpret aerial photographs result in little more than speculation about the operations of Bay Smelting and Bay Chemical. At most, records suggest the possibility that historical operations at this site might have resulted in a potentially adverse (but undefined) effect on the Hylebos Waterway. Based upon my knowledge of these historical operations and the absence of evidence regarding a release of problem chemicals to the sediments from this site, coupled with documented evidence of ongoing releases from numerous major sources on the Hylebos Waterway, any contribution of contaminants from this site from 1954 to 1974 was minimal both in volume and toxicity when compared to other sources of contaminants.

24. I am not aware of any connection between historical activities of these three PRPs and the proposed remediation of contaminated sediments in the Hylebos Waterway. This is confirmed by the finding in the June 5, 1992 Milestone 1 report delisting this site from the list of probable sources of sediment contamination in the Hylebos. For the reasons stated herein, I request that EPA and/or the "Major PRPs" enter into a settlement agreement to terminate any potential liability of Bay Smelting, Bay Chemical and Bay Zinc for CERCLA response actions at the Hylebos Waterway.

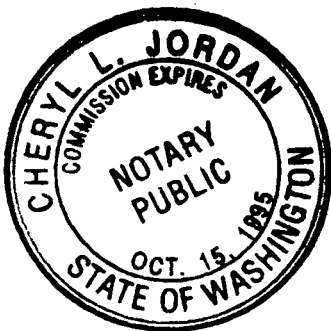
DATED this 17<sup>th</sup> day of September, 1993.

  
Richard J. Camp, Jr.

STATE OF WASHINGTON )  
COUNTY OF Yakima ) ss.

I certify that I know or have satisfactory evidence that RICHARD J. CAMP, JR. is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: September 17, 1993.



  
(Signature)

CHERYL L. JORDAN  
(Print Name)

Notary Public in and for the State  
of Washington, residing at Arlee WA.  
My commission expires: 10-15-95

See letter of May 24, 1991  
to Mark Crissien  
from Jim Wick, SITBE Energies  
refers to NW sector where  
contaminated soil is  
being stored. Where  
is that from?

Where is the Belt Line Railway?  
Hydros property?  
See letter to Rick Singer, dated  
Aug. 23, 1990  
High hydrocarbons  
2500 yds of used ballast

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE REGIONAL ADMINISTRATOR  
REGION X, SEATTLE, WASHINGTON

In the Matter of the )  
HYLEBOS SUPERFUND SITE )  
\_\_\_\_\_ )

AFFIDAVIT OF  
RUSSELL POST

STATE OF WASHINGTON )  
County of Pierce ) ss.

The undersigned, being first duly sworn on oath, deposes and says:

1. That I, Russell Post, am the Environmental Program Coordinator for the Tacoma Public Utilities Department of the City of Tacoma, and I have worked for Tacoma Public Utilities in this capacity since 1988.
2. That I make this affidavit of my own knowledge and after review of the relevant records and files of the City of Tacoma.
3. That I submit this affidavit on behalf of the City of Tacoma, Department of Public Utilities, Light Division and that I am competent to testify to the matters stated herein.
4. Tacoma Public Utilities (TPU) operates power and water supply and distribution utilities in Tacoma and surrounding areas and also operates the Belt Line Railroad, a small switching rail service in the Port area of Tacoma.

5. This affidavit is not submitted on behalf of the City of Tacoma, General Government with regard to sewer, street, or public works activities within the CB/NT boundaries. It is my understanding that the Agency has recognized the distinction between Tacoma Public Utilities and City of Tacoma General Government and has agreed to proceed treating the two entities as distinct and separate.

6. The Light Division of Tacoma Public Utilities owns and operates Tacoma Steam Plant #2 on the Hylebos waterway.

7. This affidavit is submitted to qualify for a de minimis settlement.

8. Hazardous substances contributed by Steam Plant #2, if any, are minimal in amount and toxicity, relative to the contributions of other parties and were not identified as a concern by the EPA's ROD. It is my further belief that a de minimis settlement is practicable and in the public interest and represents a fair allocation of the expected burdens.

9. The property of concern indicated in the Special Notice Letter - Information Request (104(e)) dated June 21, 1993 for the Commencement Bay Nearshore /Tideflats Superfund site: Hylebos Waterway Head and Mouth units includes (a) 1200 Taylor Way, (b) 1201 Taylor Way, (c) 1171 Taylor Way, and (d) 3536 East 11th St.

10. One additional property located at 3510 East 11th Street was listed in the special notice letter. This property is owned by City of Tacoma General Government, not Tacoma Public Utilities.

11. The properties of concern include Tacoma City Light's Steam Plant #2, an electrical switching station, and a vacant lot.

12. The parcels which make up the listed properties were acquired by Tacoma Public Utilities in 1923, 1928, 1929, 1930, 1942, and 1954.

Do we  
want to  
challenge  
this or  
clarify?

13. The properties delineated by the addresses 3536 East 11th street, 1171 Taylor Way, and 1201 Taylor Way are contiguous and contain Steam Plant #2 and the Starwood Tie electrical switching station. They will be referred to as the Steam Plant throughout the rest of this document.

14. The property at 1200 Taylor Way is a vacant lot. There have been no known operations on this site.

15. The Starwood Tie electrical switching station contains several mineral oil filled breakers and associated towers and lines for the breaking of electrical load and distribution of electricity from one of Tacoma City Light's generating stations to several different substations. The oil filled breakers are known to have been contaminated with less than 500 ppm PCBs but have subsequently been drained, flushed, and refilled in order to reduce the contamination level.

16. There are no known releases or spills of mineral oil or PCBs at this location.

17. The Steam Plant was first placed into service in 1930. It used coal to generate steam which turned two turbines to produce electricity. The Steam Plant used water from the Hylebos waterway to condense the steam and then was returned to the waterway at a higher temperature than the ambient waterway temperature.

18. The Steam Plant was typically used only during peak area electric load periods and logged approximately 9000 hours of operation between 1930 and 1989. This is equivalent to 375 days out of a total of 59 years (21,535 days), or under two percent of the time (1.74%).

19. During its lifetime, the Steam Plant was converted to oil from coal. It was mothballed in 1973.



20. During operation of the old Steam Plant, chemicals were used to remove the buildup of minerals in the boilers. These chemicals included Sodium Sulfate, Sodium Phosphate, and Sodium Hydroxide. These chemicals in the boiler blowdown water as well as the sanitary drains from within the Plant were discharged to the Hylebos waterway.

21. During the mothball process in the 1970s, the surplus heavy oil was removed from the 600,000 gallon storage tank.

22. During the process, the tank caught fire and released several thousand gallons of oil into the unlined containment area around the tank. This spill was remediated and never impacted the Waterway.

23. From the 1930s until the 1970s a portion of this property was used as the site for an electrical substation where high voltage electricity was transformed to lower voltage and distributed throughout Tacoma City Light's tideflats distribution area.

24. The equipment from this substation was surplus and removed in 1987.

25. During the removal process, all the oil in the oil filled equipment was tested for PCBs. Results of these tests indicated that PCBs were present up to several hundred ppm, but that no levels over 500 ppm were present.

26. There are no recorded incidents of spills from this substation. In 1985, prior to the completion of the Steam Plant repower project, several surface soil samples were taken from the area in and around the substation site and analyzed for PCBs. None were found.

27. From 1983 to 1989, the steam plant was retrofitted with some new components and was designed to operate using woodwaste, coal, refuse derived fuel, and natural gas as fuels. The plant was repowered in 1989 and is

*I have newspaper articles on this. It sounded worse than this.*

*Do we have these test reports?*

considered state of the art in power generation and operates in compliance with permits issued by the State of Washington and Pierce County.

28. Only uncontaminated storm runoff water is now allowed to enter the waterway from the site.

29. Tanks for the storage of up to 60,000 gallons of new transformer mineral oil are also located within the large containment area. The oil in these tanks is tested regularly for PCBs, but no PCBs are known to have ever been in these tanks. These tanks have no known history of leaks or spills.

30. During the current operation of the Steam Plant, all process water is reused or disposed in the sanitary sewer through permit with Tacoma Sewer Utility.

31. All storm water contacting any fuel storage or process areas is collected and stored in the large tank and used for wetting the ash prior to disposal.

32. Only non-contact storm water is directed to a drainage swale and discharged to the waterway.

33. The only problem chemical known to have been on site is PCB which was found as a contaminant in the mineral oil in the electrical equipment. No known discharges of PCBs have occurred.

34. An extensive Phase II Environmental Assessment was performed on the property at 1200 Taylor Way (the vacant lot) in 1991 by Woodward-Clyde Consultants.

35. The study included surface and subsurface soil analysis and groundwater evaluations. The results indicate no chemicals of concern within the soils of the site and no groundwater (shallow aquifer only) contamination above background.

36. As previously mentioned, a surface sampling episode occurred in 1985 on the Steam Plant property where the samples were analyzed for PCBs. No PCBs were detected in any of the samples.

37. Tacoma Public Utilities has not been identified as a source or suspected source of any of the waterway contaminants and as such has not been a party to any activity involving source control or as having any participation in milestone activities.

38. The Record of Decision on this site has not identified TPU as a suspected source of any of the problem chemicals as identified in the RI/FS and has shown, preliminarily, that the sediments adjacent to the Steam Plant do not require remediation.

39. There has been no remediation of TPU property during its ownership for any identified chemicals of concern. The only remediation was for a large fuel oil spill in the 1970s which was remediated without any release of substance to the waterway.

40. The sanitary sewers serving Steam Plant #2 were, from 1930 until approximately 1986, discharged directly to the Hylebos. These sewers were connected to the lavatory facilities within the Plant. From 1986 on, all sanitary discharges from Plant activities have gone to the City of Tacoma sewage treatment plant.

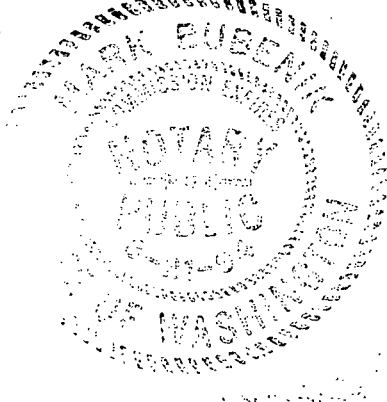
41. In conclusion, there are no chemicals of concern which are identified or suspected as originating from the Steam Plant property and the only chemical of concern known to have been on the property, PCB, has never, to my

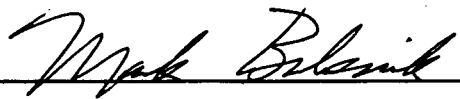
knowledge, been released or allowed to be discharged to the Hylebos Waterway.

Further sayeth the affiant naught,

  
\_\_\_\_\_  
RUSSELL POST

Subscribed and sworn to before me this 20<sup>th</sup> day of September, 1993.



  
\_\_\_\_\_  
Notary Public in and for the State  
of Washington, residing at Tacoma Gig Harbor  
My Commission expires 8/21/94

ts/hylaff1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Re: Commencement Bay Near Shore/Tide	)	AFFIDAVIT OF
Flat Superfund Site,	)	GARY GARRISON
Hylebos Waterway	)	SUBMITTED ON BEHALF
	)	OF CASCADE TIMBER
	)	CORPORATION

---

1. I am the president and owner of Cascade Timber Corporation. This affidavit is based upon my personal knowledge and I am competent to testify to the matters herein. This affidavit is submitted on behalf of Cascade Timber Corporation which is listed as a potentially responsible party concerning the Hylebos Waterway and which recently received from EPA a "Special Notice Letter" which Cascade Timber responded to in some detail.

2. I created "Cascade Timber Corporation" in the early 1970s for the purpose of performing various timber related activities including log sorting. Cascade Timber Corporation is a very small company which generally has less than five employees including myself and (b)(6). Since I created Cascade Timber Corporation I have been involved in the day to day running of the business. I am also a life long resident of Tacoma and have substantial personal knowledge concerning the activities which have taken place on various pieces of property which lie adjacent to the Hylebos Waterway.

3. Cascade Timber Corporation has never owned any real property remotely close to the Hylebos Waterway. However, from

1977 to 1981 it leased an ongoing log sort yard from McFarland Cascade Corporation. This site is located at 2502 Marine View Drive, Tacoma, Washington, is approximately eight acres in size, and has also been called the "Cascade Pole" yard in the past. It is bordered by Buffelin Woodworking Company, Sound Refining, Inc., Marine View Drive and the Hylebos Waterway. When Cascade Timber leased this log yard from McFarland Cascade, it was directed to continue maintaining the log yard as the log yard had been maintained in the past. This included the use of Asarco slag as log sort yard ballast.

4. As president of Cascade Timber Corporation I was approached in the mid-1970s by Asarco and a company (I believe called "IMP" or Industrial Mineral Products) which marketed Asarco slag. Asarco's representatives attempted to convince me to cease using the river gravel which had traditionally been used as log sort yard ballast and to instead use Asarco slag. Asarco represented its slag as being inert, nontoxic and guaranteed that it would not leach any hazardous substances if used as log sort yard ballast. Asarco further warranted that its slag would actually be better suited as ballast than river gravel. As you likely know, Asarco's marketing of its slag only occurred because the Army Corps of Engineers revoked its permit to dump slag into Commencement Bay. Unfortunately, I relied upon Asarco's representations and Asarco slag was used to maintain the McFarland Cascade log sort yard from 1977 to 1981. We previously supplied to EPA all receipts showing the amount of slag placed on the site.

during this time period which was approximately 1,600 tons. Since 1981 I do not believe the McFarland Cascade yard has been used and it is currently being remediated.

5. Prior owners of the McFarland Cascade yard include Puget Sound Tug & Barge (which owned the property from about 1957), Kewane Oil (which purchased the property in either the late 1950s or early 1960s from Puget Sound Tug & Barge), a Mr. Marvin who purchased the property in about 1966, Woodworth & Company which purchased the property in about 1967, Cascade Pole which purchased the property in about 1973 and, finally, McFarland Cascade which, I believe, purchased Cascade Pole sometime before 1977. I believe this site has been used as a log sort yard since about 1965. I am not certain as to its use prior to 1965.

6. Another piece of property which may be at issue has been designated by some entities in the past as the "Cascade Timber No. 2" yard. This site is on the south side of Taylor Way across from the Penwalt Chemical Corporation and Dunlop Towing. I do not know why this site has been designated in the past as "Cascade Timber No. 2" as it has been owned by the Port of Tacoma for sometime and was used in the past as the Port's "over flow" yard. Other log sort yards have been tenants of this site for extended periods of time of up to several years. In the early 1980s, Cascade Timber did place some logs owned by Burlington Northern on this site for approximately three and one-half months at the direction of the Port of Tacoma. At no time did Cascade Timber place any slag (or anything else) on this property other than the

Burlington Northern logs. I am quite certain that in the past a company by the name of Ohio Ferro operated a metal refining type plant on this site.

7. I am aware of the 1985 Tetra Tech final report which summarized the results of a detailed investigation of the source of contaminants into the Hylebos Waterway. One of the potential sources investigated was the McFarland Cascade log sort yard. Of the numerous chemicals and compounds of concern in the Hylebos, the only one which appears to be traceable to this site is arsenic. At § 7.2.9.2 (page 7.7.9) of the report it was determined that approximately 1.92 ounces of arsenic apparently flowed to the Hylebos from this site per day. Next to the Weyerhaeuser yard (which is paved), the McFarland Cascade yard was by far the smallest contributor of arsenic by a log sort yard to the Hylebos. Further, the contribution compared to other significant contributors such as the Penwalt facility which apparently contributed a total of approximately 14.6 pounds of arsenic per day to the Hylebos waterway. This report was previously provided to EPA as an attachment to Cascade Timber's response to EPA Special Notice Letter.

8. It is apparently accepted that arsenic flowing from the McFarland Cascade log yard has as its source Asarco slag. The slag was placed on this yard in the relative recent past and use of the yard was discontinued in 1981. Due to the relative small quantity of Asarco slag placed on this yard and its short term use after the slag was placed on the site, most likely its contribu-



tion of arsenic to the Hylebos is extremely small even when compared to other log sort yards. In contrast, a facility such as Penwalt has been discharging huge quantities of arsenic and other toxic substances into the Hylebos for decades. Further, this site is not the source of any of the other numerous hazardous compounds in the Hylebos such as PCBs which may substantially complicate (and increase the cost) of the ultimate remediation of the Hylebos waterway.

9. Cascade Timber Corporation believes that it is a minor or "de minimis" potentially responsible party concerning the Hylebos waterway. In addition to the above facts, Cascade Timber bases its opinion on the following information. Cascade Timber has now been involved in two lawsuits concerning the cleanup of the McFarland Cascade log yard, the B&L landfill and a log sort yard on Port of Tacoma Road which Cascade Timber operated from 1981 to approximately 1984 (and has no possible pathway to the Hylebos). The issue in both cases, filed in Federal District Court before Judge Bryan, concerned who was responsible under both state and federal Superfund laws for cleaning up the above pieces of property which have been contaminated by heavy metals leaching from Asarco slag which was used as log sort yard ballast. As you know, the lawsuit designated Port of Tacoma v. Asarco (Cause No. C88-217TB) was recently concluded. Even though in that case, Cascade Timber brought all of the Asarco slag to the site and was the only log sort yard operator on the site both the jury and Judge Bryan found it not responsible for any of the

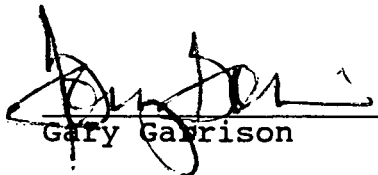
cleanup associated with the use of Asarco slag as log sort yard ballast.

10. Despite Asarco's claims to the contrary, the results of that lawsuit, and the incredibly damaging evidence concerning Asarco's operations and representations which surfaced at the trial, are relevant to the Hylebos cleanup allocation. For example, even though the Department of Ecology ordered Asarco to discontinue selling its slag to log sort yards in 1981, it continued to sell the slag to Cascade Timber as log sort yard ballast even though Cascade Timber was never informed of the 1981 meeting, and was never provided any information from any entity that there was even a concern that Asarco slag might leach hazardous substances. Asarco admitted during the trial that the slag it sold to log sort yards such as Cascade Timber was marketed, sold and picked up at its smelter and that Asarco never bothered to put up any warning signs at its entrance gate, that its employees involved in loading the slag for delivery to log sort yards never informed anyone that there might be a problem with the use of its slag, and Asarco made no other effort to inform log yards its slag might create an environmental problem if used as ballast.

11. Also, documents were introduced during the trial prepared by Asarco management after it had been warned by Ecology to discontinue its marketing of slag to the log sort yards which described Ecology's efforts as a "witch hunt." Even though the trial in this case lasted nearly four months, either (b) (6) or I

attended nearly every day. Unfortunately, I believe the only way you could have a true understanding of the extent of Asarco's culpability is to review the exhibits and transcript of that trial. The simple fact of the matter is that Cascade Timber would not even be listed as a PRP at any of these sites but for Asarco's representations, guarantees and promises that its slag was safe to use as log sort yard ballast, that it would not leach, and that it would not harm the environment in any fashion. Both Judge Bryan and a federal court jury saw fit to hold Asarco responsible for its misrepresentations under both state and federal Superfund laws.

12. In conclusion, when Cascade Timber was in the log sort yard business, it ran the smallest such operation in the Tacoma area. It was a relatively short-term tenant of the McFarland Cascade site from which a very minor quantity of arsenic apparently leached into the Hylebos from Asarco slag. In addition to this very minor contribution, Cascade Timber believes that Asarco should be solely responsible for the release of arsenic from its slag because of the representations made by it which convinced the log sort yards such as Cascade Timber to use Asarco slag as ballast. Not only is this position consistent with the equitable factors I understand are generally used to allocate responsibility at Superfund sites, but it is also consistent with how a federal judge and a jury have evaluated the same issue.

  
\_\_\_\_\_  
Gary Garrison

SIGNED AND SWORN TO (or affirmed) before me on  
9-13-93, 1993 by Gary Garrison.

Donald P. Duffey  
NOTARY PUBLIC in and for the State  
of Washington

DONALD P. DUFFEY  
(Printed or Stamped Name of Notary)  
Residing at E. C. HARBOR

My appointment expires 6-15-97

m/23918.001  
d-aff

AFFIDAVIT

I AM MAKING THIS AFFIDAVIT ON BEHALF OF STONE INVESTMENT CO., RICHARD OLIN, AND MYSELF, DONALD OLIN.

WE PURCHASED THIS PROPERTY IN 1983 FROM BUFFELIN WOODWORKING CO.. BUFFELIN WOODWORKING CO. HAD OWNED THE PROPERTY SINCE BACK IN THE EARLY 1900'S. THIS PROPERTY WAS VIRGIN LAND THAT HAD NEVER BEEN USED PRIOR TO OUR PURCHASE..

WE PRESENTLY HAVE AN APPLICATION WITH THE CITY OF TACOMA FOR A BARGE UNLOADING FACILITY FOR SAND AND GRAVEL. THE ONLY USE WE HAVE HAD SINCE WE PURCHASED THE PROPERTY IS FOR STORAGE OF BUILDING MATERIAL AND EQUIPMENT.

ADJOINING OWNERS OF PROPERTY ARE MODUTECH MARINE AND CASCADE POLE CO..

CORDIALLY YOURS,

Don Oline  
DON OLIN

STATE OF WASHINGTON )

) ss.

COUNTY OF Pierce )

On September 16th, 19 93, before me, a Notary Public in and for said State, personally appeared

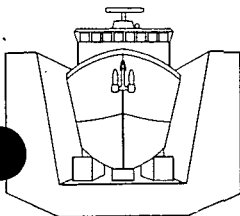
\* Don Oline \* \*

~~personally known to me (as a Notary Public) to be the President of Stone Investment Co., and that such Corporation is a duly organized and existing corporation under the laws of the State of Washington, and that the foregoing instrument is a true and correct copy of the original instrument presented to me for recording.~~

WITNESS my hand and official seal

Notary Public for Pierce County

My appointment expires: 4-29-96



# AK - WA Inc.

401 Alexander, Bldg. 9588 • Tacoma, WA 98421 • (206) 272-0108 • Fax (206) 272-4952  
Mailing Address: P.O. Box 872, Tacoma, WA 98401-0872

## AFFIDAVIT AK-WA, INC.

### SUBJECT:

**HYLEBOS MINOR PRP/DE MINIMIS PARTICIPANT.**

### INTRODUCTION:

**I ROCKLAND BECKER MAKE THIS AFFIDAVIT OF MY OWN KNOWLEDGE AND I AM COMPETENT TO TESTIFY TO THE MATTERS STATED HEREIN.**

**I SUBMIT THIS AFFIDAVIT ON BEHALF OF AK-WA, INC. 401 ALEXANDER BUILDING # 9588 -- TACOMA, WA 98421.**

**I AM ROCKLAND JAY BECKER, DIRECTOR OF SAFETY AND ENVIRONMENTAL HAZARDS FOR AK-WA, INC. I HAVE BEEN EMPLOYED BY AK-WA SINCE DECEMBER 1985.**

**AK-WA HAS LEASED AND OCCUPIED THE PROPERTY SINCE MAY OF 1985. THE FACILITY BECAME FULLY OPERATIONAL IN MAY OF 1986 AND WAS NOTIFIED APRIL 24, 1989 THAT AK-WA WAS A POTENTIALLY RESPONSIBLE PARTY AT THE CB / NT SITE.**

**PRIOR TO AK-WA'S TENURE THIS SITE HAS BEEN OPERATED BY TACOMA BOAT BUILDING CO., ZIDELL MARINE, PACIFIC MARINE REPAIR, MARINE INDUSTRIES, COAST ENGINES, KIEWIT CONSTRUCTION AND TODDS PACIFIC SHIP YARD. PRIMARILY THE PREVIOUS LESSEES HAVE CONDUCTED SHIPREPAIR, SHIPBUILDING & SHIPBREAKING OPERATIONS FOR ABOUT 80 YEARS.**

**THIS AFFIDAVIT IS SUBMITTED TO QUALIFY FOR A DE MINIMIS SETTLEMENT. THE HAZARDOUS SUBSTANCES CONTRIBUTED BY THE AK-WA FACILITY ARE MINIMAL IN AMOUNT AND TOXICITY, RELATIVE TO THE CONTRIBUTIONS OF OTHER PARTIES. IT IS MY FURTHER BELIEF THAT A DE MINIMIS SETTLEMENT IS PRACTICABLE AND IN THE PUBLIC INTEREST AND REPRESENTS A FAIR ALLOCATION OF THE EXPECTED BURDENS.**

**THE PROPERTY OF CONCERN INDICATED IN THE COMPREHENSIVE LIST OF POTENTIALLY RESPONSIBLE PARTIES IS LOCATED AT THE VERY MOUTH OF THE HYLEBOS WATERWAY SOUTHWEST SIDE, WATER BODY I.D. NO. WA-10-0020. (SEE ENCLOSURE "A").**

**ADJACENT TO THE AK-WA FACILITY LIES THE NATIONAL GUARD TO THE SOUTHWEST, AND PORT OF TACOMA PROPERTY FOR LEASE TO THE EAST. THE CLOSEST FACILITY OF CONCERN WOULD BE OCCIDENTAL CHEMICAL CORP. LOCATED 1/4 MILE DUE EAST OF THE AK-WA FACILITY.**

**DRYDOCKING      CONVERSIONS      STEEL FABRICATION      SHIP REPAIR**

AK-WA, INC. OPERATES A SHIP REPAIR FACILITY LOCATED AT THE MOUTH OF THE HYLEBOS WATERWAY. THE AK-WA FACILITY BEGAN OPERATIONS IN 1985. THE FACILITY'S PRIMARY FUNCTIONS INCLUDE STRUCTURAL STEEL REPAIR AND FABRICATION; SAND BLASTING AND PAINTING OPERATIONS. OUR CUSTOMERS INCLUDE THE COMMERCIAL FISHING & PROCESSING INDUSTRY, WASHINGTON STATE FERRY SERVICES AND THE U.S. NAVY.

THE AK-WA FACILITY COVERS APPROXIMATELY 4 ACRES. PORT OF TACOMA PROPERTY.

AK-WA HAS LEASED & OCCUPIED THE PROPERTY SINCE MAY OF 1985. FROM THE ONSET OF BUSINESS HERE AT AK-WA, ENVIRONMENTAL REGULATIONS HAVE PLAYED AN IMPORTANT ROLL AS TO HOW AK-WA COULD CONDUCT BUSINESS AND MAINTAIN REGULATORY COMPLIANCE. THIS IS IN COMPLETE CONTRAST AS TO HOW THE PREVIOUS TENANTS WERE ALLOWED TO CONDUCT BUSINESS AT THIS SITE.

THIS IS A VERY IMPORTANT POINT WHEN YOU CONSIDER THE LACK OF ENVIRONMENTAL REGULATIONS AND WHAT WAS CONSIDERED ACCEPTABLE DURING THE 50'S, 60'S, & 70'S.

SOURCE CONTROL MEASURES FOR SANDBLASTING HAVE BEEN CONDUCTED SINCE 1985. ALL SANDBLASTING GRIT HAS BEEN DISPOSED OF ACCORDING TO REGULATORY STATUTES.

ALL HAZARDOUS WASTE HAS BEEN MANIFESTED AND DISPOSED OF ACCORDING TO THE REGULATORY STATUTES.

PRIOR TO OUR FACILITY NPDES PERMIT (6/91) AK-WA AVERAGED LESS THAN TWO PROCESS WATER DISCHARGES A MONTH.

CURRENTLY FACILITY PROCESS WATER (HYDRO-BLASTING) IS UNDER SOURCE CONTROL MANAGEMENT BY UTILIZING A PRE TREATMENT SYSTEM ALLOWING DISPOSAL TO THE CITY SEWER SYSTEM.

IN ACCORDANCE WITH WASHINGTON'S HAZARDOUS WASTE REDUCTION ACT. AK-WA HAS DEVELOPED PLANS TO REDUCE FACILITY WASTE BY PRODUCING A FIVE-YEAR POLLUTION PREVENTION PLAN.

TESTING OF AK-WA'S STORM WATER OUT FALLS HAVE REVEALED LEVELS OF COPPER AND ZINC. AK-WA'S NPDES PERMIT #WA-004014-2 REQUIRES STORM WATER SOURCE CONTROL TO BE IN PLACE BY AUGUST 1994.

THE AK-WA FACILITY HAS 3 STORM DRAIN OUTFALLS, TWO OF WHICH TERMINATE TO THE HYLEBOS AND 1 TO COMMENCEMENT BAY,. AK-WA PROVIDES GENERAL MAINTENANCE SUCH AS HAND CLEANING THE SUMPS. THE PORT OF TACOMA OWNS THE STORM DRAIN SYSTEM. THEY PROVIDE BI-ANNUAL VACUUM SERVICE AND PERFORM ANY REPAIR WHICH MIGHT BE NEEDED. THIS SERVICE HAS BEEN IN PLACE SINCE MAY OF 1985.

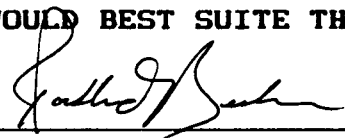
IT HAS BEEN NOTED THAT AK-WA'S NPDES PERMIT REQUIRES CHRONIC LEVELS OF TESTING, ECOLOGY HAS RECOGNIZED THAT ACUTE LEVELS ARE MORE APPROPRIATE, A PERMIT MODIFICATION IS EXPECTED.

NEITHER MILESTONE 1 or 2 HAVE IDENTIFIED AK-WA AS A MAJOR SOURCE CONTRIBUTOR.

MILESTONE 1 & 2 SPECIFICALLY LIST ONE MAJOR SOURCE AT THE MOUTH OF THE HYLEBOS PROBLEM AREA: OCCIDENTAL CHEMICAL CORP.

IN CLOSING IT IS CLEAR AK-WA'S TENURE IS CONSIDERED SHORT. DOCUMENTED DISCHARGES HAVE BEEN MINIMAL RELATIVE TO THE MAJORS AND PREVIOUS TENANTS AT THIS SITE. SETTLEMENT AS DE MINIMIS OR MINOR PRP IS APPROPRIATE AND WOULD BEST SUITE THE PUBLICS INTEREST.

SIGNATURE

  
ROCKLAND BECKER, DIRECTOR OF  
SAFETY & ENVIRONMENTAL HAZARDS  
FOR AK-WA, INC.

STATE OF WASHINGTON

)  
)ss.

COUNTY OF PIERCE

ON SEPTEMBER 16, 1993, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED ROCKLAND BECKER, DIRECTOR OF SAFETY AND ENVIRONMENTAL HAZARDS FOR AK-WA, INC.

WITNESS MY HAND AND OFFICIAL SEAL

  
SHEILA I. ELSETH, NOTARY PUBLIC  
MY APPOINTMENT EXPIRES: 5-15-97



AFFIDAVIT

STATE OF WASHINGTON     )  
                                  )  
                                  )     ss.  
County of Walla Walla    )

I, Dirk Fledderjohann, being duly sworn and under oath, make my affidavit as follows:

I am the Operations Manager for the Tacoma Sawmill and have been employed by Louisiana-Pacific Corporation ("L-P") for thirteen years. As Operations Manager, I am familiar with the operations of the Tacoma Sawmill.

L-P has owned and operated its Tacoma studmill and log sort yard since 1973. The sawmill is located at 3701 Taylor Way, Tacoma, WA 98421. Its log sort yard is located at 3825 Taylor Way, Tacoma, Washington 98421. The prior owner of this property is Cheney Lumber Co., c/o Secretary of State, Olympia, Washington 98504.

The sawmill produces studs from lumber by operations involving sawing, debarking, drying, and planing. These operations are mechanical in nature and no chemicals are applied to the lumber. The log sort yard was maintained periodically by depositing ballast to provide a base on which to operate heavy equipment such as log loaders. ASARCO slag was first used as ballast for L-P's log sort yard in November 1977 and last used in March 1979.

When the Army Corps of Engineers prohibited ASARCO from dumping its slag into Commencement Bay, it marketed its slag as an environmentally safe ballast material. The slag was generated by

the ASARCO smelter located in Ruston, Washington during the 1970s. ASARCO retained a disposal contractor, Industrial Mineral Products, Inc., to process, sell, and otherwise dispose of the slag to Eagle Trucking and B & L trucking of Tacoma, Washington who in turn sold and delivered this slag to the L-P mill in Tacoma.

Copper, arsenic, lead, and zinc are present in soil and stormwater from L-P's log sort yard solely as a result of using ASARCO slag as ballast for its yard. Documentation regarding the amount of slag present at the site is incomplete but L-P believes 1800 tons were deposited at the log sort yard. It also is believed that L-P contributed an average of 0.17 pounds per day (lb/day) of arsenic into the Hylebos. CH2M Hill, Site Investigation Report (1987). This is a much lower loading than other sources to the Head of the Hylebos, at least one of which contributes as much as 53 pounds per day (lb/day). See attachment. Tetra Tech, Inc., Commencement Bay Nearshore/Tideflats Feasibility Study 5-29 (1988).

L-P and several other log sort yards filed suit against ASARCO in a cost recovery action, Louisiana-Pacific Corp. v. Asarco Inc., (W.D. Wash. 1991), appeal pending, No. 92-35061 (9th Cir. 1993). One of the findings of the court was that ASARCO arranged for disposal of hazardous substances at the log sort yards, within the meaning of CERCLA. The court also determined that L-P did not contribute to the contamination of its log sort yard and allocated 100 percent of the liability for its remediation to ASARCO.

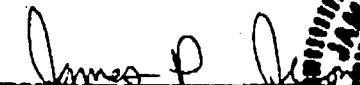
At this time, L-P is capping the entire log yard area with roller compacted concrete and is establishing a stormwater

collection system to prevent slag metals and arsenic from reaching the Hylebos waterway.

At Walla Walla, Washington this 17th day of September 1993.

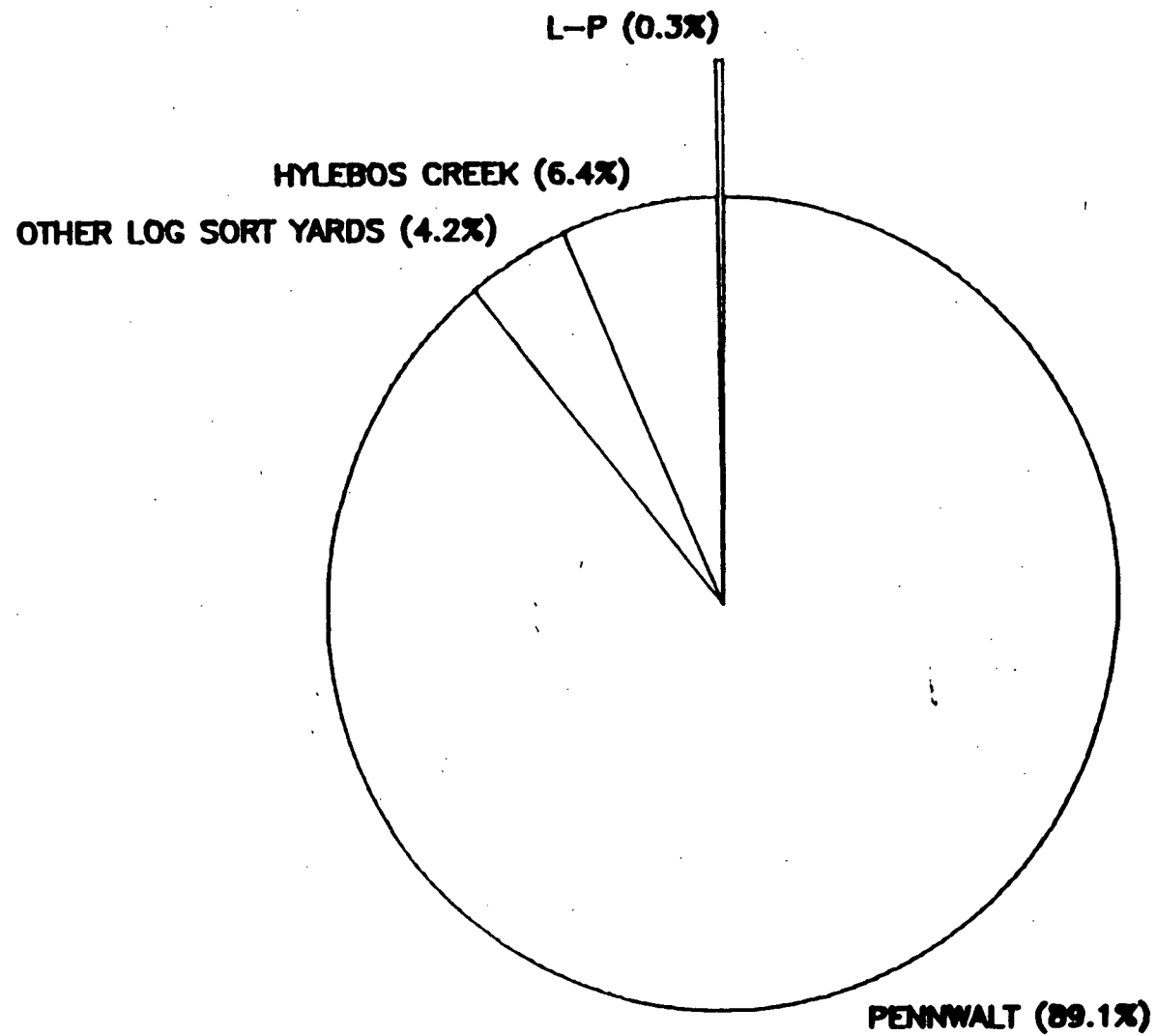
  
Dirk Fiedderjohann

Sworn to and subscribed before me on this 17th day of September, 1993.

  
Notary Public for Washington  
My Commission Expires 10/15/97



## SIGNIFICANT ARSENIC CONTRIBUTORS



AFFIDAVIT OF HARRY PROUD

STATE OF WASHINGTON     )  
                              : ss.  
County of Pierce         )

HARRY PROUD, being first duly sworn upon oath, deposes and says:

1. I make this affidavit of my own knowledge and I am competent to testify to the matters stated herein.

2. I am the President of Echo Lumber Company and I am submitting this Affidavit on behalf of Echo Lumber Company.

3. This Affidavit is submitted to qualify for a minor party settlement. The operations of Echo Lumber and its contributions to the contaminant problems at the Mouth and Head of the Hylebos Waterway are minimal in amount and toxicity, relative to the contributions of other parties. I believe that a minor party settlement is in the public interest. I further believe that a minor party settlement is a practical solution to the problems and would represent a fair allocation of the burdens of the cleanup of the Mouth and Head of the Hylebos Waterway.

4. The property of concern involving Echo Lumber is 3009 Taylor Way, which borders on the Hylebos Waterway. Echo Lumber leased the site for approximately two (2) years from August 1, 1984 through September, 1986. The property was used by Echo Lumber for a log chipping and processing business.

5. The property is owned by Elf Atochem North America, Inc., and was owned at the time of Echo Lumber's lease by Pennwalt, who

purchased the site in 1957 from Milwaukee Boom Company, which subsequently merged with Foss Tug and Barge Co. Pennwalt was later acquired by Elf Atochem. A log sort yard was operated on the site from July 1, 1966 through December 31, 1966 by Balfour Guthrie & Co., Ltd. Johnson-Byers, Inc. leased the site from January 1, 1967 through December 31, 1977 for a log sort business. West Coast Orient Lumber Mills operated a log sort business from October 24, 1977 to October 31, 1978 on the site. Mitsui U.S.A., through a wholly owned subsidiary, West Coast Lumber Operations Company, took over the lease from West Coast Orient Lumber Mills on November 1, 1978 and leased the site through November 1, 1983. West Coast Lumber Operations Company changed its name to Portac, Inc. on August 15, 1983. Dunlop Towing Company subleased the site from West Coast Lumber Operations Company from January 1, 1979 through November 1, 1983 and operated a log sort business on the site. Prior to Echo's lease of the site, Asarco generated slag material which was deposited on the property for use as road bed material and B&L Trucking Company transported slag to the site for such use. To the best of affiant's knowledge no slag was deposited on the site during the time of Echo Lumber's lease.

6. The property at 3009 Taylor Way covers an area of 17.5 acres. It is bounded by the Hylebos Waterway to the north, Taylor Way to the south, by other property owned by Elf Atochem to the west and property owned by Kaiser Aluminum to the east.

7. No hazardous materials were disposed, generated, stored, or used in the operation and maintenance of Echo Lumber's business on the site. However, it is alleged that Echo Lumber's operations,

primarily through the use of heavy machinery on the site, in conjunction with surface water runoff, helped release certain heavy chemicals from Asarco's slag.

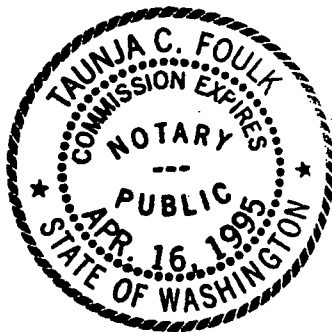
8. A series of field investigations were conducted at the site. These include a Focused Feasibility Study in 1987, a Remedial Investigation in 1988-89, a Wood Waste Expedited Response Investigation in 1989-90, and a Supplement Field Investigation in 1990. These studies led to a Final Cleanup Action Plan in December of 1991. A Consent Decree to implement the Final Cleanup Action Plan was entered in Pierce County Superior Court on December 11, 1992. These studies were done for Elf Atochem and were reviewed by the Washington Department of Ecology. I believe copies of all studies and the Consent Decree are in the possession of the Environmental Protection Agency.

9. The operations of Echo Lumber, for a period of approximately two (2) years on the site, made minimal contributions to the contaminant loadings discussed in the Consent Decree and Final Cleanup Action Plan.

FURTHER YOUR AFFIANT SAITH NAUGHT.

*Harry Proud*  
HARRY PROUD

SUBSCRIBED AND SWORN to before me this 15<sup>th</sup> day of September, 1993.



*Taunja C. Foulk*  
TAUNJA C. FOULK  
[Printed Name]  
Notary Public in and for the  
State of Washington, residing  
at *Tacoma*. My  
Commission Expires: 4-16-95.

### ***Introduction***

Technical details supporting this affidavit may be found in the several responses Bonneville Power Administration (BPA) made to the Environmental Protection Agency's request for information pursuant to CERCLA Sec. 104 (e). The Tacoma Substation discussion contains information provided principally from BPA's responses of June 27, 1989 and July 22, 1993. The right of way discussion contains information provided principally from BPA's response of September 28, 1992.

I make this affidavit of my own knowledge and experience based upon review of the available information and I am competent to testify to the matters stated herein. I have participated in the collection of information and preparation of responses to the EPA and the minor PRP group.

***Describe particularly the individual that is presenting the affidavit and why he or she is qualified to make the statements in the affidavit.***

I am Stephen R. Sander, Corporate Environmental Risk Manager for the Bonneville Power Administration. As a Supervisory Environmental Specialist within the Office of Environment, I have the responsibility for the resolution of BPA's Superfund liabilities.

***Indicate on whose behalf you are submitting the affidavit.***

I submit this affidavit on behalf of the Office of Environment, Bonneville Power Administration.

The Bonneville Power Administration owns and operates the Tacoma substation (and maintains the associated adjacent right of way properties) located in Tacoma, WA., and within the CBN/T boundaries.

BPA is a federal power marketing agency within the U.S. Department of Energy. BPA sells and transmits wholesale power to public and private utilities, as well as large industries, throughout the Pacific Northwest.

***Indicate why you are submitting the affidavit.***

This affidavit is submitted to qualify for a de minimis or minor PRP settlement. The hazardous substances contributed by BPA's Tacoma substation facility are minimal in



amount and toxicity, relative to the contributions of other parties. Those substances dumped by other parties on the nearby BPA right of way properties are either not included in the contaminants of concern to the Hylebos or are not considered to be a source of contamination to the Hylebos sediments by the State of Washington, Department of Ecology (WDOE Milestone I report). It is my further belief that EPA settlement with de minimis and minor PRP parties is practical and is in the public interest and, represents a fair allocation of the expected financial burdens for cleanup and remediation of the area. Early resolution of de minimis and minor PRP liability encourages efficient and early cleanup of contaminated sites.

***Identify the properties of concern. Describe the location of the property relative to the Hylebos Waterway or Creek.***

The properties of concern are as indicated in the EPA's General Notice Letter of April 24, 1989 and subsequent sec. 104 (e) requests and include: (1) the BPA Tacoma Substation located at 3702 Taylor Way, Tacoma, WA. and (2) adjacent and associated transmission line easements and rights of way. The subject property is located south of the Head of the Hylebos adjacent to Kaiser Aluminum, and is not directly on the waterway.

***Describe any distinguishing features relative to the property. Describe the nature of your ownership in the property (own and occupy, own and lease to, lease from, or other).***

***If there is no pathway from your property to the Hylebos state it and describe how you know that to be the case.***

#### **Substation**

The United States through BPA, owns and operates an electrical substation consisting of approximately 2.89 acres of fenced, graveled property containing electrical equipment. The BPA Substation is located between the Hylebos and Blair Waterways at Commencement Bay. Several other PRPs (Kaiser Aluminum, Weyerhaeuser Lumber Co., Louisiana Pacific Lumber Co., Manke Lumber Company and others) are between the Tacoma substation and the Hylebos. property includes a surface/storm water drainage system with associated collection pond (3.44 acres), which drains to the west (away from the Hylebos) toward the Blair Waterway, with no known or obvious surface drainage connection to the Hylebos Waterway. Moreover, the Washington Department of Ecology (WDOE) Milestone I Status Report (May 1993) did not recognize the BPA Tacoma Substation as a probable or confirmed source of contamination to the sediments of the Hylebos Waterway. More detailed information may be found in the several BPA responses to sec.104 (e) requests as described in the introduction above. The substation provides direct service to the Kaiser aluminum plant and the Tacoma City Light substation, both adjacent to the BPA facility.

## **Right of Way**

The United States through BPA owns and/or maintains easements and transmission line rights of way extending from the Tacoma substation to the Fife ditch, approximately 27.32 acres of vegetated land. The right of way does have an intermittent surface drainage way which connects to the Fife Ditch.

*Describe how long you have owned, leased, occupied or used the property.*

BPA first acquired the subject properties in 1942, and has continued ownership and operation to the present time.

*Describe the responsibility of any others, if appropriate, relative to the property of concern.*

BPA is solely responsible for the substation property itself. BPA has no knowledge or information that its activities have impacted the transmission line right of way. Any contamination present on the right of way is the result of fill placed there by PRP Oxychem, B&L Trucking, their successors and others. A more detailed discussion of the easement/right of way parcels is provided in BPA's responses to the sec. 104 (e) requests as noted in the above.

*Describe adjoining property owners*

The BPA substation is bounded on the north by the Kaiser Aluminum plant; on the west by the Tacoma City Light substation. The right of way is bounded on the north by Kaiser Aluminum, Norcore Plastics Inc., and the Taylor Way property ( being transferred to Puyallup Tribe from the Port of Tacoma) and on the east by the East-West Road property (Puyallup Tribe) and the Fife Ditch (Port of Tacoma).

*Identify the hazardous materials that have been disposed, generated, stored or used in the operation and maintenance of your business or relative to your ownership. Consider as an alternative identifying only the problem chemicals.*

## **Substation**

BPA owns and operates high voltage electric equipment, some of which contains polychlorinated biphenyls (PCBs). This equipment includes transformers and capacitors. The largest transformers at the Tacoma substation contain PCB material in concentrations of 1 or 2 ppm. BPA has no records of and is not aware of any transformers at the substation which contain PCBs in excess of 500 ppm. In addition to transformers, there

are a number of capacitors at the substation that are assumed to contain PCBs, likely in excess of 500 ppm.

Each capacitor contains about 3 gallons of PCB fluid. These capacitors do fail on occasion, and may result in minor leaks or spills; however, based on BPA records of such failures, less than 10 percent of all capacitor failures have resulted in a spill that has reached the ground. Since 1984, when records were first kept at the Tacoma facility, 49 PCB capacitors have been removed due to failure.

Any spilled fluid was cleaned up and all contaminated materials were placed in appropriate DOT barrels and shipped off-site for proper disposal. Information indicates that these were minor spills with one recent exception, a reportable release, which is described in the 104 (e) responses noted in the introduction above. Included in those responses, BPA attached both an Environmental Appraisal Report and Toxic Substances Control Act (TSCA) Inspection Report, prepared on August 31, 1988. These reports comprehensively describe BPA activities with respect to the use of PCBs and any other hazardous substances at the Tacoma Substation.

With the exception of PCB waste, there is no record of hazardous materials being generated at the Tacoma Substation. However, BPA uses small amounts of trichloroethane as a cleaner and degreaser on electric equipment. The solvent is generally applied with a cloth or brush, and is ultimately disposed of in an approved hazardous waste container. BPA does not store trichloroethane at the substation.

The substation also historically operated a small underground gasoline fuel tank (550 gallons) which was installed in 1979, and subsequently removed in 1988. The gasoline was for an emergency generator and probably contained lead, ethyl benzene or xylene, as components of fuel. There is no record of any spills or discharges from the tank.

### **Right of Way**

BPA has some knowledge and sampling data (reports of 9/19/89; 8/21/90; 8/12/91 prepared by Conestoga-Rovers Assoc. for Oxychem and also WDOE sampling data from Milestone I Report, May 1993, regarding contamination by others on the transmission line right of way. The contaminants include asbestos, volatile organic compounds (VOCs), metallic sandblast grit, and some arsenic. BPA does not believe that any substances deposited on the right of way (only arsenic is a contaminant of concern) have been a significant source of contamination to the sediments of the Hylebos. This is based on WDOE's Milestone I Source Control Status Report (May 1993) which describes the relationship between the right of way and the Hylebos Waterway. WDOE states that the right of way was not listed as a confirmed because EPA's sampling data indicates that the site is not a source of contamination to the Hylebos Waterway.

***Confirm that the Milestone Report addresses the same facilities and sites that were identified in the general letter.***

The BPA sites included in the Milestone Report are the same as those identified in the general notice letter.

***Describe the conclusion of the Milestone Report***

BPA's Tacoma substation was not included on List 2 or List 3 and therefore is not considered a probable or confirmed source of contamination to the Hylebos. The right of way was identified as the Occidental - BPA sludge site and also was not included as a probable or confirmed source on either List 2 or List 3.

***Reference the problem chemicals***

No reference was made by the Milestone I report in terms of the BPA substation and any problem chemicals. The right of way site was associated with arsenic contamination, however; the report concluded that the right of way was not a source of arsenic contamination to Hylebos sediments based on EPA sediment sampling and was therefore not added to List 3.

***Describe whether there has been any remediation of cleanup of the property during your ownership, use, or lease or otherwise.***

**Substation**

Since the TSCA regulation have been in effect, minor PCB releases and the one reportable release were cleaned up as described above.

**Right of Way**

BPA is currently negotiating with responsible parties for the removal of contaminants on the right of way.

***Note that the Milestone Report does not address historical contaminants. Describe any study or analysis that addresses historical contaminants for your site or facility.***

The Milestone reports do not and will not address historical contamination within the Hylebos. However, BPA has historic soil sampling information for the substation soils, which do not indicate significant levels of PCB contamination, nor a direct pathway to the Hylebos waterway. BPA has also retained a consultant to conduct additional sampling from the substation property toward the waterway to confirm the above data.

A number of historic studies by others, e.g. Oxychem, EPA and WDOE, have been completed on the properties around and including the BPA right of way. BPA is not aware of any information which would indicate or demonstrate that the right of way property has been a significant contaminant source to the sediments of the Hylebos Waterway.

**Conclusion**

Consequently, as to the BPA Tacoma Substation and the associated right of way property, the contribution of contaminants from those sources to the sediments of the Hylebos is minimal.

Stephen R. Sander  
Stephen R. Sander

September 15, 1993  
Date

STATE OF OREGON

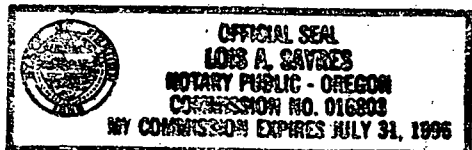
COUNTY OF MULTNOMAH

On September 15, 1993, before me, a Notary Public in and for the said State, personally appeared Stephen Sander, personally known to me (or proved to me on the basis of satisfactory evidence) to be the Manager for Corporate Environmental Risk for the Bonneville Power Administration and executed the within instrument.

WITNESS my hand and official seal

Lois A. Sayres

My appointment expires: 7/31/96



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

IN THE MATTER ;

Commencement Bay Nearshore/Tideflats )  
Superfund Site // SEDIMENTS OF HEAD AND )  
MOUTH OF THE HYLEBOS WATERWAY Tacoma, )  
Pierce County, Washington Proceeding )  
under Section 122 (g) (4) of the )  
Comprehensive Environmental Response, )  
Compensation and Liability Act of 1980, )  
as amended, 42 U.S.C. 9622 (g) (4) )  
)

AFFIDAVIT OF  
CHRIS FISHER

STATE OF WASHINGTON )  
County of Pierce ) : ss.

CHRIS FISHER, being first duly sworn, upon oath deposes  
and says:

I make this affidavit of my own knowledge, and am competent  
to testify to the matters stated herein.

I submit this affidavit on behalf of Streich Bros. Inc.  
The owners and officers are Ron Streich President,  
Wayne Streich Vice President, John Streich Secretary, and  
Chris Fisher Treasurer.

This affidavit is submitted to qualify for a de minimis  
settlement. The hazardous substances contributed by  
Streich Bros. Inc. are minimal to non-existent in amount and

AFFIDAVIT OF  
CHRIS FISHER  
PAGE - 1

toxicity, relative to the contributions of other parties. It is my further belief that a de minimis settlement is practicable and in the public interest and represents a fair allocation of the expected.

The property of concern is located at 1650 Marine View Dr., Tacoma, WA 98422. The property was purchased September 7, 1966 from the Port of Tacoma. An additional piece of adjoining property was purchased in 1979 from Hart Construction . They are now considered one parcel of land.

Streich Bros. Inc. is a Machine and Fabrication Shop. The work accomplished at this location incorporates a wide variety limited quantity but unique metal projects, such as remanufacturing driveshafts to incorporate larger diameter surface areas, repair and fabrication of buckets and loaders for excavation and material handling equipment, and fabricating special use equipment for unique and isolated project machinery.

We use solvent parts washers (2) supplied to us by Safety Kleen and picked up by Safety Kleen. We have used their services since 1990. Prior to that we used a company called K & L Parts Washers for approximatently 3 years. Prior to that the equipment that needed to be cleaned was wiped down with rags, then the rags were laundered by our cleaning service or

AFFIDAVIT OF  
CHRIS FISHER  
PAGE 2

disposed of in the normal waste process through the City of Tacoma Refuse Utility .

Sludge from our machines go to Burlington Environmental. We generate approximately 5 gallons in an 18 month period.

Scrap metal is picked up by General Metals, we have used their services since 1966.

Safety Kleen also picks up on an as needed basis antifreeze, used oil filters, and paint related thinners.

Any trash generated from office activities is disposed of in the normal waste process through the City of Tacoma Refuse Utility.

We have a Small Quantity generator number with EPA # WAD988499190.

On June 6, 1991 ATEC was contracted to perform and document the removal and disposal of one underground storage tank. A small amount of contaminated soil was excavated and remediated on site.

In conclusion Streich Bros. Inc. believes that the contribution of contaminants from the operation has been minimal to none.

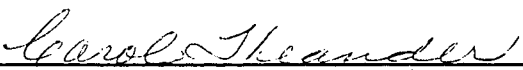
AFFIDAVIT OF  
CHRIS FISHER  
PAGE - 3



Dated this 15th day of September, 1993

  
Chris Fisher

SUBSCRIBED & SWORN TO before me this 15th day of Sept, 1993

 Carol Theander  
Notary Public in and for the State  
of Washington, residing at Tacoma.  
My commission expires: 4/19/97

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

IN THE MATTER OF:

Commencement Bay Nearshore/Tideflats  
Superfund Site/SEDIMENTS OF THE HEAD  
AND MOUTH OF THE HYLEBOS WATERWAY  
Tacoma, Pierce County, Washington  
Proceeding under Section 122(g)(4)  
of the Comprehensive Environmental  
Response, Compensation and Liability  
Act of 1980, as amended, 42 U.S.C.  
§ 9622 (g) (4)

AFFIDAVIT OF  
DONALD S. OLSON

STATE OF WASHINGTON )

County of Pierce )

ss.

Donald S. Olson being first duly sworn on oath, deposes and  
says:

I have personal knowledge of the matters set forth herein and  
I am competent to testify thereto.

This affidavit is submitted on behalf of Ole & Charlie's  
Marinas which operates two boat moorage facilities near the mouth  
of the Hylebos Waterway. I am a co-owner/lessee, as set forth with  
more particularity below, and I am involved in the day-to-day  
operations of the marinas.

Affidavit of  
Donald S. Olson - 1

This affidavit is offered in support of Ole & Charlie's participation in a cash out settlement of its potential liability for costs arising from the remediation of the sediments in the Hylebos Waterway. The hazardous substances contributed by Ole & Charlie's to the Waterway, if any, are minimal in amount and toxicity relative to other parties.

Ole & Charlie's Marinas consists of two boat moorage facilities. One facility is located at 4026 Marine View Drive (hereinafter referred to as the "4026 property") on property which we originally leased from the Port of Tacoma beginning in May 1975. As part of the Puyallup Indian Tribe land settlement, this property was conveyed to the Puyallup Indians and, thus, we are presently a lessee of the Tribe. The current lessees are Arnold S. Olson, Donald and Barbara Olson, and Charles and Patricia Curran. Since December 31, 1989, this property has been operated and managed by Ole & Charlie's Marinas, a sub S Washington corporation. Olson, Olson and Curran are the sole stockholders of the corporation.

The 4026 property has dry storage for 84 boats and water moorage, both covered and open, for 136 boats. There are no aboveground or underground fuel storage tanks on the property and to the best of my knowledge there never have been. There are no marine haul out facilities at this property.

The second facility is located at 4224 Marine View Drive (hereinafter referred to as the "4224 property"). The current

owners of this facility are Arnold S. Olson, Donald and Barbara Olson, and Charles and Patricia Curran. The 4224 property was purchased from Sailboats East, Inc. on June 26, 1984. Since the date of purchase, the owners have leased the property to Ole & Charlie's Marina #3, a sub S Washington corporation.

The 4224 property is bounded on the north by Marine View Drive, on the south by the Hylebos Waterway, on the east by residential property, and to the west by property owned by the Puyallup Indian Tribe. The property has water moorage, covered and uncovered, for 66 boats and dry storage in the form of a yard, sheds and racks, for 178 boats.

There are three tenants on the 4224 property: 1) Bayside Boat Sales operates a boat broker business; 2) Carl's Marine Repair Service operates an outboard motor repair business; and 3) Trophy Boat Tops operates a canvas shop.

Historically, both the 4026 and 4224 properties have been operated as marinas since at least the early 1950's.

In 1990, four underground storage tanks were removed from the 4224 property. The tanks had been used for storage of leaded gasoline, diesel fuel, unleaded gasoline and heating oil. When the tanks were removed there was no evidence of soil or groundwater contamination.

A boat haul-out and service area occupies the southeast corner of the 4224 property. From 1984 until 1991, the marine haul-out

was leased to an individual who operated a boat haul-out and repair service business. In May 1991, the tenant went out of business and the marine way has not been used since that time. Historically, the haul-out area was used for pleasure boat cleaning, painting, and repairs.

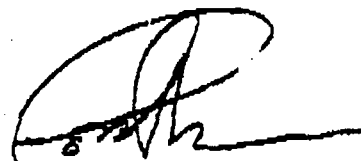
In 1990, as part of an environmental assessment for a potential purchaser of the 4224 property, Golder Associates conducted a soil gas survey in the areas around the marine haul-out and the underground storage tanks. Nine samples were taken and were screened for benzene, toluene, ethylbenzene, xylene, tetrachloroethene, and trichloroethene. None of these constituents were detected.

As part of the same assessment, a total of 12 soil samples were taken in the fuel storage, maintenance, and boat haul-out areas. Soil samples were screened for selected aromatic and chlorinated volatile organic hydrocarbons, total lead, and total petroleum hydrocarbons. Only one sample showed detectable concentrations of petroleum hydrocarbons, at 250 mg/Kg. Trace amounts (2 and 3 ug/Kg) of volatile aromatics and chlorinated hydrocarbons were located near the fuel storage and marine haul-out areas. Lead was detected in several of the samples, with the highest values found near the haul-out area. Two of the samples were composited and analyzed for arsenic, mercury, lead, cadmium,

tin, nickel, zinc, and barium. The soil analysis did not reveal the presence of any of these target compounds.

Based on the information set forth above, Ole & Charlie's contends that its contribution of contaminants to the Nylaboa Waterway is minimal and therefore it is a proper party to be considered for a cash out settlement.

The information contained in this affidavit is correct to the best of my knowledge and is based upon my review of available files that were reasonably expected to contain information about the two boat moorage facilities.



Donald S. Olson

SIGNED AND SWORN to before on September 20, 1993, by Donald S. Olson.



NOTARY PUBLIC

Name: Irene Koosman  
My appointment expires: 6/23/97

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Affidavit of



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101

September 20, 1993

RECEIVED  
SEP 21 1993

OFFICE OF REGIONAL COUNSEL  
EPA - REGION X

Reply to  
Attn of: HW-113

ENFORCEMENT CONFIDENTIAL

MEMORANDUM

SUBJECT: Review of PRP good faith offer - Hylebos Waterway

FROM: Allison Hiltner *Allison Hiltner*  
Remedial Project Manager

TO: Addressees

I have attached a copy of the redlined version of the Hylebos Scope of Work contained in the Hylebos Cleanup Committee's "good faith offer" for pre-design (they have not committed to do the full design) of the Hylebos Waterway cleanup for your review and comment. You will note that it consists mainly of incorporating all of the ideas we have already heard from Paul Fugelvand and Betsy Stripland into the SOW, including things we have said many times are unacceptable.

I would like you to review their redlined changes and provide comments to me by 9/27/93. I realize this is an extremely short turn-around - but we have 30 days to reach an agreement, so we have to be quick. Please focus on the specific language changes made in sections pertaining to your area of expertise, (Russ - don't worry about the SMS references, as we have discussed, they will be removed), then feel free just to offer broad comments on the pre-design sampling process proposed by the PRPs. It's essentially the same as what they have proposed in previous meetings.

Also, we will meet at September 29, 1993 1:00 in EPA conference room 12A to discuss the good faith offer and continue discussing a framework for pre-design sampling. Fugelvand and Stripland (and probably various other PRP technical types) will be there for the first half to explain their proposals, then we will excuse them and talk amongst ourselves. I have also tentatively scheduled a follow-up meeting for the afternoon of October 12.

Please note that this document, as part of confidential settlement negotiations, should not be shared or discussed with those not involved with these negotiations. Please feel free to call me at 553-2140 if you have any questions.

Thank you for your cooperation.

Attachment

Addressees:

John Malek, WD-128  
Russ McMillan, Ecology  
Thomas Poole, COE  
Dave Fox, COE  
Gene Revelas, WDNR  
Mike Salazar, NOAA  
Nancy Musgrove, Weston  
Lori Cohen  
Karen Keeley

cc: Lori Houck ✓